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LAW OFFICES

MULLIN, RHYNE, EMMONS AND TOPEL PROFESSIONAL CORPORATION

SIDNEY WHITE RHYNE NATHANIEL F. EMMONS ROBERT E LEVINE

EUGENE F. MULLIN

MARK N. LIPP*
CHRISTOPHER A. HOLT
J. PARKER CONNOR

OF COUNSEL

SPECIAL COUNSEL

SOLICITOR OF THE
SUPREME COURT OF
ENGLAND AND WALES

*NOT ADMITTED IN DC

ORIGINAL

1000 CONNECTICUT AVENUE - SUITE 500 ROBERT E LEVINE WASHINGTON, D. C. 20086-5383 Sep 11 58 M 1920WARD A TOPEL

(202) 659-4700 TELECOPIER (202) 872-0604 RVICES

September 10, 1992

Ms. Donna R. Searcy, Secretary Federal Communications Commission 1919 M Street, N.W.--Room 222

SEP FOR 1592

Ojeda Broadcasting, Inc. Hobbs, New Mexico FCC Form 301

SEP 11 10 58 AM '92

AUDIO SERVICES

RECEIVED

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

The application of Ojeda Broadcasting, Inc. ("Ojeda") for a new FM station on Channel 234A, Hobbs, New Mexico (File No. BPH-910705ML) is hereby amended to provide the following materials and information concerning Ojeda's financial qualifications in response to the FCC's letter of inquiry dated August 24, 1992:

- 1. Attached as Appendix A is a letter dated July 1, 1991, from the United New Mexico Bank ("UNMB") to my husband and me. The letter is referenced in paragraph 5 of the pleading entitled "Consolidated Opposition to 'Second Petition to Dismiss Application' and 'Third Petition to Dismiss Application,'" which Ojeda's attorneys filed on September 25, 1991. As noted in that pleading, the letter served, in part, as a basis for my initial certification of financial qualifications.
- 2. By way of background, my husband and I have had a banking relationship with UNMB for approximately 10 years (my husband's relationship with the bank extends back approximately 20 years). We have for many years maintained a joint checking account at the bank, and also have maintained joint certificates of deposit there as well. Moreover, my husband maintains a separate business account at the bank, and we also have opened an account there for Ojeda.

Prior to certifying Ojeda's financial qualifications, 3. we met with UNMB's then Executive Vice-President, D. Kirk Edens, to discuss the bank's willingness to provide financing for the proposed station. We advised Mr. Edens of our desire to construct and operate the first Spanish language FM radio station licensed to Hobbs, and provided him with an assessment of the Spanish language market based on our extensive broadcast experience. We told him that the likely start-up costs for the including equipment, construction and station. operating expenses, would be approximately \$100,000, and discussed with him our particular financing needs. We proposed to Mr. Edens that we would contribute at least \$40,000 to the venture, and suggested that we would require a loan of up to \$60,000 from the bank to cover our cost estimates of \$100,000. Based on his review of our financial condition (including our account summaries which he accessed on the bank's computer while we were meeting with him), our proposed cash contribution to the project, and our long and established relationship with the bank, Mr. Edens told us that UNMB almost certainly would be willing to provide financing for the proposed FM station. invited us to submit a formal loan application at that time, but we told him that the FCC application process could take awhile and that a formal loan application would be premature. Instead, we asked him to write a simple letter to evidence our conversation and to confirm that the bank would likely extend

the loan we had requested. Mr. Edens agreed to do so, and he wrote the letter attached as Appendix A.

- 4. Following our conversation with Mr. Edens, I certified my financial qualifications based on my understanding that the bank would be willing to extend the requested loan, subject to our filing a formal loan application and receiving final credit approval. Attached as Appendix B are copies of financial documents which demonstrate that at the time we met with Mr. Edens we had in excess of \$50,000 on deposit at UNMB and other banks, which was more than sufficient to meet our proposed contribution of \$40,000 to the station. 1/
- 5. Attached as Appendix C is a letter dated September 16, 1991, from UNMB to Ojeda Broadcasting, Inc. Shortly after I filed my application as an individual, I decided to form a corporation and to amend the application to substitute the corporation as the applicant. I own 80% of the corporation, and my husband owns 20%. In light of this structural change (and also because a competing applicant, Rosemary Houston, had alleged in a petition that UNMB would not extend the requested loan), my husband and I visited UNMB again to confirm the bank's willingness to provide financing. First, we met with Mr. Ron

I have asked Ojeda's attorneys to redact certain personal information from the appendices such as our account numbers, social security numbers, transaction descriptions, daily account balances, etc. However, I would be happy to provide this information to the Commission upon request.

Mullin, the bank's President, to discuss our financial proposal. We told him of Ms. Houston's allegations and provided him with a copy of Mr. Eden's July 1, 1991, letter. Mr. Mullin assured us that there was no truth to the allegation that the bank was unwilling to provide financing, and asked how he could help remedy the problem. We discussed with him our broadcast experience and desire to operate Hobbs' first Spanish language FM radio station, and reviewed with him our cost estimates for the proposed facility. We explained to Mr. Mullin that, although our projected cost estimates had not changed, we wished to increase the amount of our proposed loan by \$20,000 in order to bolster our cash reserves. (We also had been advised that additional debt might provide us with potential tax benefits.) After discussing our business plans and reviewing our financial condition (including assets and credit history), Mr. Mullin agreed that the bank would issue a second letter confirming that UNMB would be willing to extend a loan to the corporation in the increased amount of \$80,000, subject to credit approval at the time a formal loan application was submitted by the corporation. He therefore referred us to Mr. Edens to obtain a letter confirming this fact. We subsequently met with Mr. Edens to obtain the confirmation letter, and reviewed with him once again our financial condition and our plans for the station. Attached as Appendix D is financial documentation which demonstrates that we had over \$55,000 in available cash on deposit at UNMB and other banks at that time. After reviewing our financial

proposal, available assets and credit history for a second time, Mr. Edens issued the letter attached as Appendix C confirming the bank's willingness to extend a loan to the corporation in the increased amount of \$80,000, subject to certain conditions specified in the letter. Based on these discussions and the confirming letter, I recertified Ojeda's financial qualifications in an amendment to the application dated September 18, 1991.

6. Attached as Appendix E is additional financial documentation which demonstrates that my husband and I currently have over \$65,000 in cash on deposit that may be used to finance the construction and operation of our proposed station.

I, Perla Acosta Ojeda, hereby certify that the statements contained herein are true and correct to the best of my knowledge and belief, and are submitted in good faith.

Perla Acosta Ojeda

September 10, 1992

APPENDIX A

Letter Dated July 1, 1991, From United New Mexico Bank to Hermilio and Perla Acosta Ojeda



United New Mexico Bank at Lea County Main Office Post Office Box 1290 Hopps, New Mexico 88241-1290 Telephone 505-397-3271/6526

July 1, 1991

RE: Hermilo and Pearl Acosta Ojeda 110 South Willow Box 457 Hobbs, NM 88240

To Whom It May Concern:

Mr. and Mrs. Ojeda have visited with our bank about a loan to be used for start up costs associated with a new local FM Spanish Radio Station. Mr. Ojeda has estimated that he will need a total of \$100,000.00.

Mr. Ojeda will have a strong cash equity contribution into this project. This speaks very favorably for them and will be considered a strong plus as we look further into their loan application.

We appreciate any courtesies that you might be in a position to extend Mr. and Mrs. Ojeda. Please call us if you have a question about this matter.

Sincerely,

D. Kirk Edens

Exec. Vice President

KE/cew

APPENDIX B

·	Available Cash Deposits as of July 1.	1991
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September 1, 1992

Mr. Jermilo Ojeda P.O. Box 457 Hobbs, New Mexico 88240

Dear Mr. Ojeda:

I have researched the information you were needing on your CD, and the interest made on June of 1991 was 44.61 and on August of 1991 it was 44.28.

If you need any further assistance, please contact me at 397-6630.

Thank you,

Liz Garcia

Customer Information Center

LG/eb

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APPENDIX C

Letter dated September 16, 1991, From United New Mexico Bank to Ojeda Broadcasting, Inc.



September 16, 1991

United New Mexico Bank at Lea County Main Office Post Office Box 1290 Hobbs, New Mexico 88241-1290 Telephone 505 397-3271/6526

Perla Acosta Hermilo Ojeda Ojeda Broadcasting, Inc. 110 South Willow Hobbs, NM 88240

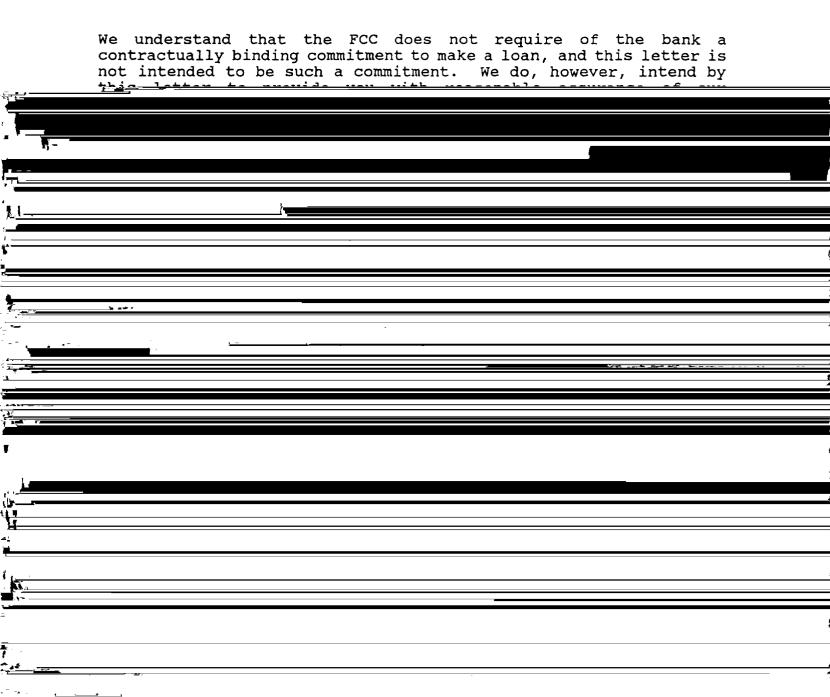
Dear Mr. and Mrs. Ojeda:

I was pleased to meet with you last week to discuss your application with the Federal Communications Commission for a construction permit to build and operate a new FM radio station in Hobbs, New Mexico. Based upon our conversation regarding your plans for the station, as well as your long-standing relationship with the bank and my review of your present financial condition, I am writing to provide you with "reasonable assurance" of our willingness to consider a loan to you in the amount of \$80,000.00 to finance the construction and initial operating expenses of the proposed station.

Although the exact terms and conditions of the loan will be negotiated at the time you submit a formal application for approval, if the loan were to be made today I anticipate that it would include the following terms and conditions:

1. The loan would be repayable over a term of 3-7 years, with

Perla Acosta Hermilo Ojeda September 16, 1991 Page 2



APPENDIX D

Available Cash Deposits as of September 1, 1991

<u>Page 1 -</u>	UNMB joint checking account summary through 9/11/91\$ 1,600.05
<u>Page 2 -</u>	UNMB account summary for Hermilo Ojeda dba Radio Mexicana through 8/30/91\$ 3,578.84
Page 3 -	UNMB CD Summary through 8/31/92 a. CD #1: date opened - 6/27/88 Value as of 9/1/91 - at least\$ 5,000½/ b. CD #2: date opened - 9/19/88 Value as of 9/1/91 - at least\$ 5,000½/ c. CD #3: date opened - 7/31/89 Value as of 9/1/91 - at least\$10,000½/
Page 4 -	SunWest Bank of Hobbs CD summary through 8/31/92 a. CD #1: date opened - 6/11/90 Value as of 9/1/91\$10,000 b. CD #2: date opened - 6/10/91 Value as of 9/1/91\$10,000
Pages 5-7	- Lea County State Bank CD summary through 9/1/92 a. CD #1: date opened - 10/22/90 Value as of 9/1/91 - at least\$10,000
	Total Available Cash Deposits as of September 1, 1991\$55,178.894/

 $[\]frac{1}{\text{The CD}}$ was opened with a deposit of \$5,000. The attached account summary shows the CD's current value with accrued interest.

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